

Final Regulation Order

Amendments to the California Reformulated Gasoline Regulations

Note: The preexisting regulation text is set forth below in normal type. The amendments are shown in underline to indicate additions and ~~strikeout~~ to show deletions.

Adopt title 13, California Code of Regulations, section 2273, to read as follows:

Section 2273. Labeling of Equipment Dispensing Gasoline Containing MTBE.

(a) **MTBE labeling requirement.** All devices dispensing gasoline containing methyl tertiary butyl ether (MTBE) at filling stations, garages or other outlets where petroleum products are sold or offered for retail shall be marked with a conspicuous label at all times the product is offered for retail sale.

- (1) The label shall state that the gasoline being dispensed “Contains MTBE. The State of California has determined that the use of this chemical presents a significant risk to the environment.
- (2) The label shall be contrasting in color to the gasoline dispensing equipment and have capitalized lettering using not less than one-eighth inch high letters, except that “MTBE” shall have lettering using not less than five-eighth inch high letters with a stroke of not less than one-eighth in width and “Contains” shall have lettering using not less than one-quarter inch high letters.
- (3) The label shall be placed on the gasoline dispensing equipment’s vertical surface, on each side with gallonage and price meters.
- (4) The label shall be conspicuous and legible to a customer when viewed from the driver’s position inside the car.
- (5) The label shall be capable of withstanding extremes of weather conditions for at least one year and shall be resistant to gasoline, oil, grease, solvents, detergents, and water. Damaged labels that are not legible shall be replaced.

(b) **Residual levels of MTBE.**

- (1) The labeling requirements in section 2273(a) do not apply to equipment dispensing gasoline from a storage tank containing gasoline having an MTBE content of less than 0.6 percent by volume, as determined by American Society of Testing and Materials (ASTM)

Test Method D 4815-94a, which is incorporated herein by reference, or any other test method determined by the executive officer to give equivalent results.

(2) The labeling requirements in section 2273(a) do not apply where the equipment is dispensing gasoline from a storage tank containing gasoline having an MTBE content of less than 3.0 percent by volume, as determined by a test method identified in section 2273(b)(1), and the operator of the retail outlet demonstrates that the conditions in either section 2273(b)(2)(A), (B), (C) or (D) have occurred.

(A) The gasoline storage tank has been consecutively drained and refilled to at least 95 percent of capacity with gasoline containing less than 0.6 volume percent MTBE as specified in the following table.

<u>The percent of the total gasoline storage tank capacity that is emptied prior to refilling</u>	<u>The consecutive number of times the gasoline storage tank must be drained and refilled</u>
<u>90%</u>	<u>2</u>
<u>80%</u>	<u>3</u>
<u>70%</u>	<u>3</u>
<u>60%</u>	<u>4</u>
<u>50%</u>	<u>6</u>
<u>40%</u>	<u>8</u>
<u>30%</u>	<u>11</u>
<u>20%</u>	<u>19</u>
<u>10%</u>	<u>60</u>

(B) The gasoline storage tank has been consecutively drained and refilled to at least 95 percent of capacity with gasoline containing less than 0.6 volume percent MTBE according to the following equation.

$$N = -(0.222 + \log C_o) / \log (V_L / V_T)$$

Where:

N ≡ The number of times the gasoline storage tank must be drained and refilled. If the resultant number is not an integer, it shall be rounded up to the nearest integer.

- $C_o \equiv$ The initial concentration, in volume percent, of MTBE in the gasoline storage tank.
- $V_L \equiv$ The volume of gasoline (in gallons) left in the gasoline storage tank after each draining.
- $V_T \equiv$ 95% of the capacity (in gallons) of the gasoline storage tank.

(C) The following equation has been applied to consecutive drainings and fillings of the gasoline in the storage tank, and the equation shows an MTBE content of less than 0.6 percent by volume. The initial MTBE concentration (C_o) of the gasoline in the storage tank when the equation is first applied shall be deemed to be 15 volume percent unless the MTBE content is determined in accordance with a testing methodology identified in section 2273(b)(1). For purposes of the equation, [i] the MTBE concentration of gasoline containing less than 0.6 volume percent MTBE shall be deemed to be zero, and [ii] the MTBE concentration of gasoline delivered with an invoice or other documentation stating that the gasoline contains MTBE shall be deemed to be 15 volume percent or, if the concentration of MTBE is stated on the documentation, that stated concentration. The executive officer shall make available upon request a computer program that may be used in applying the equation.

$$C \equiv C_o(V_L/(V_L+V_D)) + C_D(V_D/(V_L+V_D))$$

Where:

- $C \equiv$ The final concentration, in volume percent, of MTBE in the gasoline storage tank after the fuel delivery.
- $C_o \equiv$ The initial concentration, in volume percent, of MTBE in the gasoline storage tank before the fuel delivery.
- $C_D \equiv$ The concentration, in volume percent, of MTBE in the fuel being delivered to the gasoline storage tank.
- $V_L \equiv$ The volume of gasoline (in gallons) left in the gasoline storage tank prior to fuel delivery.
- $V_D \equiv$ The volume of gasoline (in gallons) delivered to the gasoline storage tank.

(D) The gasoline has been consecutively drained and refilled in accordance with an alternative protocol which the executive officer has previously found in writing provides assurances of MTBE removal equivalent to the conditions in section 2273(b)(2)(A), (B), and (C).

(c) **Responsibility for compliance.** The operator of the retail gasoline outlet shall be responsible for compliance with the labeling requirements in section 2273(a).

(d) **Deliveries of gasoline to retail outlets.**

- (1) Any person delivering gasoline to a retail gasoline outlet shall provide to the outlet operator or responsible employee, at time of delivery of the fuel, an invoice, bill of lading, shipping paper, or other documentation which states whether the gasoline does or does not contain 0.6 percent by volume or more MTBE, and which may identify the volumetric amount of MTBE in the gasoline. For purposes of determining compliance with this section 2273(d), the volumetric MTBE content of gasoline shall be determined by ASTM Test Method D 4815-94a, which is incorporated herein by reference, or any other test method determined by the executive officer to give equivalent results.
- (2) No person shall deliver gasoline containing 0.6 percent by volume or more MTBE to a storage tank at a retail gasoline outlet unless at the time of the delivery either:
- (A) All pumps dispensing gasoline from the storage tank are labeled as containing MTBE, or
- (B) The party delivering the gasoline, or on whose behalf the delivery is being made, can demonstrate that it has received and is maintaining a nonsuperseded written notification from the operator of the retail gasoline outlet that all of the outlet's gasoline dispensing equipment, or all of the outlet's dispensing equipment dispensing gasoline of the grade being delivered, is labeled as containing MTBE.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).